

Gambling Laws: European Commission takes action against Member States' lack of Compliance with EU Law

Today, the European Commission announced that it has formally opened a series of infringement proceedings against a number of EU Member States whose laws on gambling appear to be in breach of the rules of the internal market.

In doing so, the Commission has sent a reasoned opinion to Sweden which had been under scrutiny for several years, and has asked Belgium, Cyprus, the Czech Republic, Lithuania, Poland and Romania for further information on their national legislation which currently restricts the supply of gambling services.

It is regrettable, however, that no countries have so far been referred to the Court of Justice of the EU when existing infringement proceedings appeared to be sufficiently advanced and substantiated to do that.

The Commission's announcement follows the publication of its Action Plan on online gambling in October 2012 which asserted that it would be taking steps to ensure that Member States complied fully with EU law. The announcement by the Commission today also reflects the wishes of the European Parliament as expressed in successive resolutions on online gambling drafted by MEPs Jürgen Creutzmann and Ashley Fox, in 2012 and 2013 respectively, which firmly called for EU action on compliance. There at last appears to be a consensus at EU level on the need to address unlawful restrictions after many years of inaction.

Starting in October last year, the Commission initiated a

dialogue with Member States and requested that national restrictions to the provision of online gambling be justified as provided for in the case-law of the European Court of Justice. Although numerous Member States were initially part of the Commission's investigation, it has decided to proceed with action against only a small number of Member States. The absence of Germany and Greece is particularly regrettable as both are key gambling markets whose current laws do not appear to be fully compatible with EU law.

It must also be noted that formal proceedings can be lengthy and unless Member States decide on their own initiative to adopt legislation complying with the Commission's instructions, it may still be many years before a judgment of the Court compels them to change.

The RGA fully appreciates, however, that the Commission's announcement will put further pressure on reluctant Member States and that is to be welcomed. It is to be hoped that this will accelerate the trend within the EU towards the establishment of new licensing regimes. These have demonstrated that an open, regulated market can provide an EU-compliant solution."

Clive Hawkswood, CEO of the RGA, stated that *"the announcement is a step in the right direction for an online gambling industry that has suffered for too long from legal uncertainty and unjustified market closures. Although we are fully aware that, under certain conditions, market restrictions can be deemed lawful and justified, we are entitled to the free provision of services and due regard must be given to those rights. We once again look to the Commission, as guardian of the Treaties, to enforce those provisions and we expect that those countries subject to a proceeding will introduce the required changes as soon as possible."*